

ORDINANCE NO.

**AN ORDINANCE AMENDING CHAPTER 6-4 OF THE CITY CODE AND
REPEALING PARTS 4, 5, 6, AND 8 OF ORDINANCE NO. 20070809-002
RELATING TO WATER USE MANAGEMENT.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 6-4-53 (*Applicability*) of the City Code is amended to read:

§ 6-4-53 APPLICABILITY.

This article applies to a person who uses or allows the use of water, other than reclaimed water, supplied by Austin Water Utility.

PART 2. Section 6-4-54 (*Compliance Required*) of the City Code is amended to read:

§ 6-4-54 COMPLIANCE REQUIRED.

A person may not [~~knowingly~~] use or permit the use of water in a manner that conflicts with the requirements of this article in an amount greater than permitted by this article.

PART 3. Section 6-4-63 (*Permanent Water Use Restrictions*) of the City Code is amended to read:

§ 6-4-63 PERMANENT WATER USE RESTRICTIONS.

(A) This section prescribes permanent water conservation regulations and applies year-round.

(B) A person may not irrigate outdoors at a commercial facility except:

(1) on a designated outdoor water use day; or

(2) as provided in Subsection (E).

(C) A person may not irrigate outdoors using a permanently installed automatic irrigation system between the hours of 10:00 a.m. and 7:00 p.m., except as necessary to make repairs required under Subsection (D) or as provided in Subsection (E).

(D) A person may not:

- (1) fail to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
- (2) operate a permanently installed irrigation system with:
 - (a) a broken head;
 - (b) a head that is out of adjustment and the arc of the spray head is over a street or parking lot; or
 - (c) a head that is misting because of high water pressure; or
- (3) during irrigation, allow water:
 - (a) to run off a property and form a stream of water in a street for a distance of 50 feet or great; or
 - (b) to pond in a street or parking lot to a depth greater than one-quarter of an inch.

(E) Subsections (B) and (C) do not apply to irrigation:

- (1) during repair or testing of a new or existing irrigation system if the person performing the testing is present;
- (2) of nursery stock at a commercial plant nursery;
- (3) of a golf course; or
- (4) of an athletic field used for organized sports if:
 - (a) the irrigation is for dust abatement purposes; and
 - (b) the owner submits to the City a dust abatement exemption application on a form prescribed by rule.

PART 4. Section 6-4-64 (*Water Conservation Stage One Regulations*) of the City Code is amended to read:

§ 6-4-64 WATER CONSERVATION STAGE ONE REGULATIONS.

- (A) This section prescribes water conservation stage one regulations and
- ~~[(B) This section]~~ applies during the time periods prescribed by Section 6-4-62(A) ~~[6-4-62]~~ (*Effective Dates Of Conservation Stages*).

- 1 (B) ~~[(C)]~~ Except as provided in Subsection (D), a person may not irrigate
2 outdoors at a residential facility or a commercial facility ~~[using a~~
3 ~~permanently installed automatic irrigation system]~~ between the hours of
4 10:00 a.m. and 7:00 p.m.
- 5 (C) A person may not irrigate outdoors at a residential facility except on a
6 designated outdoor water use day, or as provided in Subsection (D).
- 7 (D) Subsections ~~[Subsection]~~ (B) and (C) do ~~[does]~~ not apply to irrigation:
- 8 (1) using a hand-held hose or hand-held bucket ~~[at a single family,~~
9 ~~duplex, triplex, or fourplex residence;~~
- 10 (2) ~~of a new landscape, if the owner provides complete notice in the form~~
11 ~~established in the water conservation guidelines to the director at least~~
12 ~~one day before installation :~~
- 13 ~~(a) during landscape installation; and~~
- 14 ~~(b) during the first seven days after installation is complete;]~~
- 15 (2) ~~[(3)]~~ during repair or testing of a new or existing irrigation system if the
16 person performing the testing is present; ~~[or]~~
- 17 (3) ~~[(4)]~~ of ~~[to]~~ water nursery stock at a commercial plant nursery; or ~~[-]~~
- 18 (4) of an athletic field used for organized sports if:
- 19 (a) the irrigation is for dust abatement purposes; and
- 20 (b) the owner submits to the City a dust abatement exemption
21 application on a form prescribed by rules.

22 **PART 5.** Section 6-4-65 (*Water Conservation Stage Two Regulations*) is amended to
23 amend Subsection (E) to read as follows, delete Subsections (D), (G), and (M), and
24 reletter the remaining subsections accordingly:

- 25 (D) ~~[(E)]~~ This subsection prescribes requirements for outdoor irrigation, excluding
26 watering nursery stock at a commercial plant nursery.
- 27 (1) A person may not irrigate outdoors, except:
- 28 (a) with a hand-held hose or a hand-held bucket at any time;

1 (b) with a hose-end sprinkler, a soaker hose, or drip irrigation, from
2 12:00 a.m. to 10:00 a.m. and from 7:00 p.m. to 12:00 a.m. on a
3 designated outdoor water use day; or

4 (c) with a permanently installed automatic irrigation system from
5 12:00 a.m. to 10:00 a.m. on a designated outdoor water use day,
6 [~~or~~

7 ~~(d) in accordance with a variance granted by the director, if the~~
8 ~~director determines that a property cannot be completely~~
9 ~~watered with an average of three quarters of an inch of water in~~
10 ~~a single day and that the property should be divided into~~
11 ~~sections to be watered on different days.]~~

12 (2) [This paragraph prescribes requirements for irrigating new landscape.

13 ~~(a)]~~ A [a]person may not irrigate new landscape, unless:

14 (a) [~~(i)~~]the person provides a completed notice in the form established
15 in the water conservation guidelines to the director at least one day
16 before the landscape is installed; and

17 (b) [~~(ii)~~]the person irrigates with a hose-end sprinkler, a soaker hose,
18 or drip irrigation only from 12:00 a.m. to 10:00 a.m. and from 7:00
19 p.m. to 12:00 a.m. on a designated outdoor water use day, or with
20 an automatic irrigation system from 12:00 a.m. to 10:00 a.m. on a
21 designated outdoor water use day.

22 ~~[(b)The director may grant a variance from Subparagraph (a) if the~~
23 ~~director determines that a new landscape does not have an~~
24 ~~underground irrigation system and cannot feasibly be watered~~
25 ~~before 10:00 a.m. or after 7:00 p.m. If the director grants a~~
26 ~~variance, a person may water not more than three quarters inch~~
27 ~~between 10:00 a.m. and 7:00 p.m. if the person:~~

28 ~~(i) uses a hose timer or is on-site during the irrigation; and~~

29 ~~(ii) complies with the following schedule:~~

30 1. ~~for the first 10 days after installation, watering is~~
31 ~~permitted every day;~~

32 2. ~~for day 11 through day 20 after installation,~~
33 ~~watering is permitted every other day; and~~

1 3. ~~for day 21 through day 30 after installation,~~
2 ~~watering is permitted every third day.]~~

3 **PART 6.** Section 6-4-81 (*Variance*) of the City Code is amended to read:

4 **§ 6-4-81 VARIANCE.**

- 5 (A) ~~[Except as provided in Subsection (B), the]~~ The director may grant a
6 variance from a requirement of this article if the director determines that
7 special circumstances exist and that compliance with this article:
- 8 (1) adversely affects the health, sanitation, or fire protection of the public
9 or the applicant; ~~[or]~~
- 10 (2) adversely affects pesticide or fertilizer application; or
- 11 (3) substantially threatens the applicant's primary source of income.
- 12 (B) The director may grant a variance to Section 6-4-63 (*Permanent Water Use*
13 *Restrictions*), Section 6-4-64 (*Water Conservation Stage One Regulations*),
14 or Section 6-4-65 (*Water Conservation Stage Two Regulations*) if the
15 director determines: [from a requirement of Subsections 6-4-65(E) or 6-4-
16 65(G) (*Water Conservation Stage Two Regulations*) in accordance with the
17 applicable subsection.]
- 18 (1) that a property cannot be completely watered with an average of
19 three-quarters of an inch of water in a single day and that the property
20 should be divided into sections to be watered on different days;
- 21 (2) that a property is a newly installed landscape; or
- 22 (3) that a property is used as an athletic field that can not feasibly be
23 watered on the designated day.
- 24 (C) A variance granted under Subsection (B)(2) must include the following
25 conditions:
- 26 (1) the applicant may water a newly installed landscape no more than
27 three-quarters of an inch; and
- 28 (2) watering must comply with the following schedule:
- 29 (a) for the first 10 days after installation, watering is permitted
30 daily;

1 (b) for the 11th through 20th days after installation, watering is
2 permitted every other day before 10:00 a.m. and after 7:00 p.m.;
3 and

4 (c) for the 21st through 30th days after installation, watering is
5 permitted every third day before 10:00 a.m. and after 7:00 p.m..

6 (D)[E]A person may seek a variance by filing an application with the director. The
7 director may require the applicant to provide information the director
8 determines is necessary to evaluate the variance request.

9 (E)[D]If the director approves a variance, the applicant shall keep a copy of the
10 approval in a location on the affected property that is accessible and visible
11 to the public.

12 **PART 7.** Section 6-4-92 (*Penalty*) of the City Code is amended to read:

13 **§ 6-4-92 PENALTY.**

14 (A) A person commits an offense if the person performs an act prohibited by this
15 chapter or fails to perform an act required by this chapter. Each instance of
16 a violation of this chapter is a separate offense.

17 (B) ~~[Proof of a culpable mental state is not required for a conviction of an~~
18 ~~offense under this chapter.~~

19 (C) An offense under this chapter is a Class C misdemeanor, punishable by:

20 (1) a fine not to exceed \$500; or

21 (2) if the person acts with criminal negligence, a fine not to exceed
22 \$2,000.

23 (C) Proof of a higher degree of culpability than criminal negligence constitutes
24 proof of criminal negligence.

25 (D) Prosecution of an offense and enforcement of other remedies under this
26 chapter are cumulative.

27 ~~[(D) For repeat violations of this chapter, the director may disconnect or restrict~~
28 ~~water service.~~

29 ~~(E) If a person is irrigating during a time period or on a day when irrigation is~~
30 ~~not permitted for the person's street address, and a City employee cannot~~

1 find a person at that address to turn off the irrigation system, the City
2 employee may turn off an accessible irrigation system.]

3 **PART 8.** Section 15-9-37 (D) (*Customer's Responsibilities*) of the City Code is
4 amended to read:

5 (D) A customer shall:

- 6 (1) maintain the customer's property to allow verification of the service
7 address of the premises from the street; and
- 8 (2) provide the City, its agents, contractors, and employees safe and
9 unobstructed access to the customer's property to allow the City to:
- 10 (a) use, maintain, remove, or replace City property;
- 11 (b) read a utility meter;
- 12 (c) trim or remove a tree or shrubbery that interferes with or creates
13 a danger to a utility line or other City utility equipment;
- 14 (d) remove an object that interferes with or creates a danger to a
15 utility line or other City utility equipment;
- 16 (e) inspect wiring, a plumbing system, a backflow method or
17 assembly, or other equipment on a new or remodeled
18 installation;
- 19 (f) turn off an irrigation system if the customer is irrigating on a
20 day or time prohibited under Chapter 6-4 (*Water Conservation*)
21 and the customer cannot be located;
- 22 (g) [(f)] sample a wastewater discharge;
- 23 (h) [(g)] obtain a water or reclaimed water sample; and
- 24 (i) [(h)] take other action related to supplying service to the customer.

25 **PART 9.** Section 15-9-101(B) (*Basis for Termination of Service*) of the City Code is
26 amended to read:

- 27 (B) The City may disconnect a customer's utility service after notifying the
28 customer, if:
- 29 (1) the customer fails to:

- (a) visibly post the service address on a structure or meter location;
- (b) pay a delinquent utility account balance;
- (c) comply with the terms of a deferred payment agreement;
- (d) comply with credit security requirements;
- (e) connect to the City's distribution or collection facilities as required by Section 15-9-173 (Relocation of City Distribution or Collection Facility); or
- (f) comply with Section 15-9-37 (Customer's Responsibilities); or
- (g) comply with Chapter 6-4 (Water Conservation); or
- (2) the customer installs or operates equipment that interferes with utility service to another person.

PART 10. Ordinance No. 20070809-002, Part 4, Part 5, Part 6, and Part 8 are repealed.

PART 11. This ordinance takes effect on _____, 2007.

PASSED AND APPROVED

_____, 2007 §
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Will Wynn
Mayor

APPROVED: _____

David Allan Smith
City Attorney

ATTEST: _____

Shirley A. Gentry
City Clerk